

## **IC 34-55-10**

### **Chapter 10. Sales and Execution of Real Estate: Exemptions**

#### **IC 34-55-10-1**

##### **Bankruptcy exemptions**

Sec. 1. In accordance with section 522(b) of the Bankruptcy Code of 1978 (11 U.S.C. 522(b)), in any bankruptcy proceeding, an individual debtor domiciled in Indiana:

(1) is not entitled to the federal exemptions as provided by section 522(d) of the Bankruptcy Code of 1978 (11 U.S.C. 522(d)); and

(2) may exempt from the property of the estate only that property specified by Indiana law.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-10-2**

##### **List of exemptions; limitations**

Sec. 2. (a) This section does not apply to judgments obtained before October 1, 1977.

(b) The following property of a judgment debtor domiciled in Indiana is not subject to levy or sale on execution or any other final process from a court, for a judgment founded upon an express or implied contract or a tort claim:

(1) Real estate or personal property constituting the personal or family residence of the judgment debtor or a dependent of the judgment debtor, or estates or rights in that real estate or personal property, of not more than seven thousand five hundred dollars (\$7,500). The exemption under this subsection is individually available to joint judgment debtors concerning property held by them as tenants by the entireties.

(2) Other real estate or tangible personal property of four thousand dollars (\$4,000).

(3) Intangible personal property, including choses in action (but excluding debts owing and income owing), of one hundred dollars (\$100).

(4) Professionally prescribed health aids for the judgment debtor or a dependent of the judgment debtor.

(5) Any interest that the judgment debtor has in real estate held as a tenant by the entireties on the date of the filing of the petition for relief under the bankruptcy code, unless a joint petition for relief is filed by the judgment debtor and spouse, or individual petitions of the judgment debtor and spouse are subsequently consolidated.

(6) An interest, whether vested or not, that the judgment debtor has in a retirement plan to the extent of:

(A) contributions, or portions of contributions, that were made to the retirement plan:

(i) by or on behalf of the debtor; and

(ii) which were not subject to federal income taxation to the debtor at the time of the contribution;

(B) earnings on contributions made under clause (A) that are not subject to federal income taxation at the time of the judgment; and

(C) roll-overs of contributions made under clause (A) that are not subject to federal income taxation at the time of the judgment.

(7) Money that is in a medical care savings account established under IC 6-8-11.

(c) The total value of the property exempted under subsection (b)(1) through (b)(3) may not exceed ten thousand dollars (\$10,000).

(d) Real estate or personal property upon which a debtor has voluntarily granted a lien is not, to the extent of the balance due on the debt secured by the lien:

(1) subject to this chapter; or

(2) exempt from levy or sale on execution or any other final process from a court.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-10-3**

##### **Designation of exempt property by debtor**

Sec. 3. The judgment debtor may designate real property, personal property, or both as the exempted property.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-10-4**

##### **Appraisal of exempt property; selection of appraisers**

Sec. 4. For the appraisal of any property to be exempted under this chapter, two (2) disinterested householders of the neighborhood shall be chosen, one (1) by the plaintiff or the plaintiff's agent or attorney, and one (1) by the judgment debtor. These two (2), in case of disagreement, shall select a third. If either party fails to select an appraiser, one (1) shall be selected by the officer holding the execution.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-10-5**

##### **Schedule of exempt property; affidavit of appraisers**

Sec. 5. The appraisers shall make a schedule of the real and personal property selected by the judgment debtor, describing the real estate by metes and bounds, and the personal property by separate items, affixing to each the value they agree upon. The appraisers, or a majority, shall affix to the schedule an affidavit in substance as follows: "We, the undersigned, swear that, in our opinion, the property described in the schedule above is valued justly."

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-10-6**

##### **Delivery of schedule of exempt property; second or subsequent appraisals**

Sec. 6. The schedule of real and personal property shall be delivered to the officer holding the execution or other process. The officer shall return the schedule with the execution or other process and make the schedule a part of the return. However, all second or subsequent appraisals under this chapter are at the cost of the party or parties asking for the reappraisal, unless the property of the judgment debtor at the time of the reappraisal is appraised at enough over and above the legal exemption to meet the costs.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-10-7**

##### **Appraiser's fee**

Sec. 7. Each appraiser, for the appraiser's services, shall be allowed the sum of fifty cents (\$0.50), to be paid by the judgment debtor.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-10-8**

##### **Personal property only claimed as exemption; procedure**

Sec. 8. If the judgment debtor claims as exempt from execution personal property only, the officer holding the execution shall cause the property to be appraised and set apart to the judgment debtor, and shall proceed to sell such other property, if any, that is subject to execution according to law.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-10-9**

##### **Personal and real property claimed as exemption; procedure**

Sec. 9. (a) If the claim of the judgment debtor as exempt from execution includes both real and personal property, the officer holding the execution shall proceed to have the personal property appraised and set apart to the judgment debtor, and then have the real property claimed appraised. If the amount of both appraisals exceeds six hundred dollars (\$600), the debtor may, within sixty (60) days after the appraisals, pay the excess or an amount sufficient to satisfy the execution. However, if the debtor fails to do so, the officer shall proceed to sell the real property as other real property is sold on execution, if the execution authorizes the sale of the property.

(b) In making the sale under subsection (a), the officer may not receive a bid unless the bid exceeds the difference between six hundred dollars (\$600) and the appraisal of the personal property set apart to the judgment debtor. If the officer sells the real property, the officer shall pay over to the judgment debtor the amount of the difference, and of the remainder, apply upon the execution enough to satisfy the execution, and pay the balance, if any, to the judgment debtor or to such other party entitled to the balance.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-10-10**

##### **Real property only claimed as exemption; procedure**

Sec. 10. If the judgment debtor claims as exempt from the execution real property only, the real property shall be appraised, and if its appraised value exceeds six hundred dollars (\$600), the real property shall be sold if there is a bid for more than six hundred dollars (\$600). If sold, the officer shall pay to the judgment debtor six hundred dollars (\$600), and the remainder of the purchase money shall be disposed of as provided in section 9 of this chapter.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-10-11**

##### **Division of real property claimed as exemption; exemption of homestead**

Sec. 11. In all cases in which real property is claimed as exempt from sale on execution, if the real property is susceptible of division by metes and bounds without material injury, the real property shall be divided to exempt the principal dwelling house or homestead of the judgment debtor.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-10-12**

##### **Debtor's schedule required**

Sec. 12. Before a judgment debtor receives the benefit of the exemption provided by this chapter, the judgment debtor shall deliver to the officer holding the execution a schedule of all the judgment debtor's property, as required by law, if an exemption from sale on execution is claimed.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-10-13**

##### **Absence of execution defendant; rights of spouse**

Sec. 13. In any case when the execution defendant is absent from Indiana, or is absent himself or herself from home, and an attachment or execution is directed against the execution defendant's property, the spouse may:

- (1) make out and verify the schedule of the absent spouse's property, and claim and receive for the absent spouse the exemption provided in this chapter; and
- (2) claim and exercise all the rights that would belong to the absent spouse if the absent spouse were present.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-10-14**

##### **Certain lands and taxes unaffected**

Sec. 14. The exemption under this chapter does not:

- (1) affect any laborer's or mechanic's lien or lien for the purchase money of the real property exempted; or
- (2) exempt any property from taxation or from sale for taxes.

*As added by P.L.1-1998, SEC.51.*